

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LAWRENCE SHARRON BETTS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:17CV00298 AGF
)	
DR. EDWIN WOLFGRAM,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on the motion of Defendant Dr. Edwin Wolfgram, filed on August 10, 2017, to dismiss the case without prejudice for Plaintiff's failure to prosecute. More specifically, Defendant asks for dismissal based on Plaintiff's failure to notify the Court of his current address. Plaintiff filed this action pro se and in forma pauperis on January 26, 2017. He alleged that while a detainee, he was forced by Defendant (the only Defendant to survive review under 28 U.S.C. § 1915(d)) to take medication he did not want or need.

The docket sheet indicates that on April 17, 2017, the Court's Case Management Order ("CMO") that was mailed to Plaintiff was returned as undeliverable. Thereafter, a new address for Plaintiff was obtained from Defendant's counsel. The new address was entered as Plaintiff's address of record, and the CMO was resent to this new address on April 17, 2017. The docket sheet does not indicate that this mailing was returned to the Court. However, Defendant now states that he attempted to send his initial disclosures and discovery to Plaintiff at the new address of record, as well as at Plaintiff's initial

address, and both mailings were returned with no forwarding address. This assertion is not supported by an affidavit or other evidence.

Defendant's certificate of service accompanying his present motion to dismiss shows that the motion to dismiss was mailed to Plaintiff's new address of record. There was no further activity in the case until September 29, 2017, on which date the Court issued a Show Cause Order granting Plaintiff 14 days from of the date the Order to show cause why the case should not be dismissed without prejudice. The Court directed the Clerk's Office to mail the Order to Plaintiff's address of record, and cautioned Plaintiff that his failure to respond to the Order would result in dismissal of the case without prejudice.

The record reflects that the Court's Order to show cause that was mailed by the Court to Plaintiff's new address of record was returned as undeliverable on October 10, 2017, and was resent that same day to an address the Clerk's Office obtained from the Missouri Department of Corrections Offender Search website. As the docket sheet reflects, the Court made a subsequent attempt to mail a second show cause order to Plaintiff on November 15, 2017, at an address provided by phone by Plaintiff. This Order was returned as undeliverable on November 21, 2017. There has been no further activity in the case.

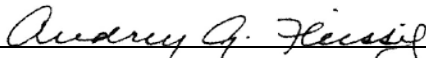
Based on this record, the Court believes that the unopposed motion to dismiss without prejudice should be granted. The Court's Local Rule 45- 2.06(B) requires pro se parties to promptly notify the Clerk of Court and all other parties to the proceedings of

any change in address and telephone number. In addition, the case is properly dismissed for failure to prosecute, under Federal Rule of Civil Procedure 41. *See, e.g., Fate v. Doe*, No. 07 Civ. 9256, 2008 WL 17522203, at *2 (S.D.N.Y. Apr. 16, 2008) (“Courts have repeatedly recognized that dismissal for failure to prosecute is appropriate where a plaintiff effectively disappears by failing to provide a current address at which he or she can be reached.”)

Accordingly,

IT IS HEREBY ORDERED that the motion of Defendant Dr. Edwin Wolfgram to dismiss Plaintiff’s complaint for failure to prosecute is **GRANTED**. (ECF No. 10.)

All claims against all Defendants having been resolved, a separate Order of Dismissal without prejudice will accompany this Memorandum and Order.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 13th day of December, 2017.